

Appl. No. 10/804,009
Amdt. Dated 2-21-06
Reply to Office Action of 12-21-05

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

Applicant has amended the claims to more narrowly distinguish the present invention over the prior art of record. Applicant respectfully submits no new matter has been introduced, which would affect the statutory requirements of patentability, because all newly claimed recitations are clearly supported by the original drawings. A person of ordinary skill in the art is enabled to make and use the presently claimed invention based on the originally filed drawings. Applicant has included case law, wherein the Court has held the claims may be amended based upon the originally filed drawings without triggering a new matter rejection (please see attached literature).

Amended Claims are Patentable

No prior art of record teaches or renders obvious the following claimed recitations:

Regarding Amended Claim 10

- an elongate body formed from recycled tire material. Mandish's body is formed from concrete (column 3, lines 36-38).
- said at least one reinforcing member positioned parallel to the longitudinal axis. Kubicky teaches its reinforcing members converging upwardly along its longitudinal axis (FIG. 1).
- an elongated cross-bar directly conjoined to a top end of said body, said cross-bar extending orthogonal to said body and having axially opposed end portions laterally displaced away from said body. No prior art of record teaches or renders obvious such a claimed recitation.
- an octagonal stop sign connected to said body for warning vehicles and pedestrians of oncoming traffic. No prior art of record teaches or renders obvious such a claimed recitation.

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- wherein one said plurality of brackets is secured to said apparatus and another said plurality of brackets is secured to a ground surface, said plurality of brackets being pivotally connected and selectively adjustable along a select quadrant such that said first and second brackets are oriented orthogonal to each other when said body is vertically situated. No prior art of record teaches or renders obvious such claimed recitation.

- said second bracket having an anchoring member directly attached to a bottom surface thereof and seated below the ground surface, said anchoring member having a plurality of spikes directly connected thereto and protruding vertically downwardly for maintaining static contact below the ground surface, said anchoring member having a thickness greater than a thickness of said first and second brackets. No prior art of record teaches such specifically claimed first and second brackets with an anchoring member and spikes. Barnes et al. simply doesn't teach pivotally connected first and second brackets, an anchor member nor spikes, as claimed by the Applicant.

Regarding Amended Claim 11

- wherein said at least one reinforcing member comprises: first and second V-shaped reinforcing members juxtaposed side-by-side within said body and equidistantly centered from said sidewalls. Applicant disagrees with the examiner that it would have been obvious to vary the shape of the reinforcing member to any shape depending on the end use of the elongate body and its desired characteristics. Applicant submits the examiner has the burden of proving obviousness and such blanket conclusory statements are not allowed by the MPEP. There must be some teaching, suggestion or motivation in the prior art to render Applicant's claimed invention obvious. In particular, there is simply no teaching, suggestion or motivation to provide first and second V-shaped reinforcing members juxtaposed side-by-side within said body and equidistantly centered from said sidewalls, as claimed by the Applicant.

In view of these considerations, it is respectfully submitted that the rejection of

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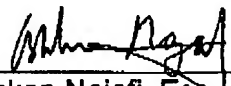
the pending claims should be considered as no longer tenable with respect to the above mentioned arguments and claim amendments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

By


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